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The National Directory of New Hires

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Summary

The National Directory of New Hires (NDNH) is a database that contains personal and financial data on nearly every working American, as well as those receiving unemployment compensation. Contrary to its name, the National Directory of New Hires includes more than just information on new employees. It is a database that includes information on (1) all newly hired employees, compiled from state reports (and reports from federal employers), (2) the quarterly wage reports of existing employees (in Unemployment Compensation (UC)-covered employment), and (3) unemployment compensation claims. The NDNH was originally established to help states locate noncustodial parents living in a different state so that child support payments could be withheld from that parent's paycheck. Since its enactment in 1996, the NDNH has been extended to several additional programs and agencies to verify program eligibility, prevent or end fraud, collect overpayments, or assure that program benefits are correct. Although the directory is considered very effective, concerns about data security and the privacy rights of employees remain a part of debates regarding expanded access to the NDNH.

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Background

The National Directory of New Hires (NDNH) is a database of personal information and wage and employment information of American workers. Employers are required by P.L. 104-193¹ to send new hire reports to the State Directory of New Hires, which then sends the required information to the NDNH. States also are required to send quarterly wage information of existing employees (in UC-covered employment) and unemployment compensation claims information to the NDNH. Federal employers (i.e., agencies) send their new hire reports and quarterly wage information directly to the NDNH. A new hire report contains six data elements on new employees, which include the name, address, and Social Security number of each new employee and the employer's name, address, and tax identification number.

The NDNH contains three components. (1) The first component of the NDNH is the new hires file (i.e., report). It contains information that is also on each employee's W-4 form.² (2) The second component of the NDNH is the quarterly wage file.³ The quarterly wage file contains quarterly wage information on individual employees in UC-covered employment. This information comes from the records of the State Workforce Agencies (sometimes called State Employment Security Agencies) and the federal government. When an individual has more than one job, separate quarterly wage records are established for each job. (3) The third component of the NDNH is the Unemployment Compensation file. The Unemployment Compensation file contains information pertaining to persons who have received or applied for unemployment compensation, as reported by State Workforce Agencies.⁴ With respect to this file, the state can only submit information that is already contained in the records of the state agency (i.e., generally the State Workforce Agency) that administers the Unemployment Compensation program.⁵

Thus, the NDNH obtains its data from State Directories of New Hires, State Workforce Agencies, and federal agencies.

The NDNH, itself, is a component of the Federal Parent Locator Service (FPLS), which is maintained by the federal Office of Child Support Enforcement (OCSE) and is housed at the Social Security Administration's National Computer Center in Baltimore, MD. According to the Department of Health and Human Services (HHS), during FY2010 about 672 million records were posted to the NDNH.

¹ Federal law provisions related to the State Directory of New Hires are in Section 453A of the Social Security Act. Federal law provisions related to the National Directory of New Hires are in Section 453(i) and Section 453(j) of the Social Security Act. The National Directory of New Hires, together with the State Directories of New Hires and the federal and state child support case registries, were enacted as part of the 1996 welfare reform law (P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996).

² The W-4 form, also called the Employee's Withholding Allowance Certificate, is the form all employees must complete so that employers can withhold the correct federal income tax from each person's paycheck.

³ Employers are required to submit a wage report of UC-covered employees every three months to the State Employment Security Agency. About 90% of all private employers are covered by UC. The quarterly wage report contains the name, Social Security number, and total wages paid to each employee during the calendar quarter.

⁴ U.S. Department of Health and Human Services, Office of Child Support Enforcement, Federal Parent Locator Service, *A Guide to the National Directory of New Hires*, July 11, 2012, p. 3.

⁵ *Ibid.*

Original Purpose

The original purpose of the NDNH was to help states⁶ locate child support obligors who were working in other states so that child support could be withheld from the noncustodial parent's paycheck. It is estimated that about 30% of child support cases involve noncustodial parents who do not live in the same state as their children.⁷ States generally use NDNH data rather than state new hire data or state quarterly wage data because they are more likely to acquire earnings information about noncustodial parents who have obtained work or claimed unemployment insurance benefits in a different state, or who are employed by the federal government.⁸ Moreover, because many noncustodial parents are in temporary employment or move from job to job, the quick reporting of information on new hires greatly increases the likelihood that the NDNH will be able to locate a noncustodial parent and pass on the information to states, so that the Child Support Enforcement (CSE) agencies can collect child support via income withholding before the noncustodial parent changes jobs.⁹ Since its enactment in 1996, access to the NDNH has been expanded, mostly to prevent fraud and abuse, to certain other programs and agencies (discussed later).

National Directory of New Hires Data

Employers are required to collect from each newly hired employee and transmit to the State Directory of New Hires¹⁰ a report that contains the name, address, and Social Security number of the employee and the employer's name, address, and tax identification number. Most states require only these six basic data elements in each new hires report; some states require or request additional information. The State Directory of New Hires is required to submit its new hire reports to the NDNH.

Data Deletion Requirements

New hire reports must be deleted from the NDNH 24 months after the date of entry. For CSE purposes, quarterly wage and unemployment compensation reports must be deleted 12 months after entry unless a match has occurred in the information comparison procedures. The reporting

⁶ Like the Child Support Enforcement (CSE) program, the NDNH covers people living in the 50 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

⁷ U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, *New Hire Reporting-Answers to Employer Questions*, July 10, 2013, p. 1.

⁸ Christin Durham and Laura Wheaton, *Investigating Alternative Sources of Quarterly Wage Data: An Overview of the NDNH, LEHD, WRIS, and ADARE*, October 18, 2012, p. 2.

⁹ Although quarterly wage data, to a certain extent, duplicate information in the new hires report, quarterly wage data (alone) were not very useful to the CSE agencies. Many noncustodial parents changed jobs so frequently that the quarterly data were often out-of-date before the CSE agencies received the information. Generally, there is about a six-month lag between the time the quarterly wage data are submitted to the State Workforce Agency and when the data are available to the CSE agencies.

¹⁰ P.L. 104-193 allows certain employees of a federal or state agency performing intelligence or counterintelligence functions to not be reported to the new hires directories (Section 453(n) of the Social Security Act). States have the option of imposing a civil monetary penalty for the failure of employers to report the required new hire information. The penalty cannot exceed \$25 per failure to meet the requirements with respect to each newly hired employee, or \$500, if under state law the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.

and deletion requirements result in a constant cycling of wage and employment data into and out of the NDNH. (The HHS Secretary may keep samples of data entered into the NDNH for research purposes.¹¹)

Data Verification

The HHS Secretary has the authority to transmit information on employees and employers contained in the new hires reports to the Social Security Administration (SSA), to the extent necessary, for verification. SSA is required to verify the accuracy of, correct, or provide (to the extent possible) the employee's name, Social Security number, and date of birth and the employer's tax identification number.

According to OCSE, all Social Security numbers on new hire reports and unemployment compensation files are verified by SSA before the information is added to the database of the National Directory of New Hires. Quarterly wage files, however, often do not include all of the necessary elements for a successful verification. In such situations, the information is transmitted to the NDNH, but it is flagged indicating that SSA was not able to verify the Social Security number and name combination.¹²

Time Frames

Employers must provide a new hires report on each newly hired employee to the State Directory of New Hires generally within 20 days after the employee is hired.¹³ The new hires report must be entered into the database maintained by the State Directory of New Hires within five business days of receipt from an employer.

Within three business days after the new hire information from the employer has been entered into the State Directory of New Hires, the State Directory of New Hires is required to submit its new hire reports to the NDNH.

Within two business days after the new hire information is received from the State Directory, the information must be entered into the computer system of the NDNH.

For purposes of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of child support, the HHS Secretary must compare information in the NDNH against information in the child support abstracts in the Federal Child Support Case Registry at least every two business days. If a match occurs, the HHS Secretary

¹¹ For information regarding extending the access to the NDNH for research purposes (with personal identifiers), see MDRC, Testimony of Gordon L. Berlin, President, MDRC, before the House Ways and Means Subcommittee on Human Resources, *Improving Access to Federal Data for More Efficient Evaluations*, March 20, 2012, <http://www.mdrc.org/publication/improving-access-federal-data-more-efficient-evaluations>.

¹² U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, *Accuracy of Data Maintained by the National Directory of New Hires and the Effectiveness of Security Procedures*, Report to the House of Representatives Committee on Ways and Means and the Senate Committee on Finance. July 31, 2002.

¹³ Federal employers send their new hire reports directly to the National Directory of New Hires (generally within 20 days after an employee is hired).

must report the information to the appropriate state CSE agency within two business days. The CSE agency is then required to instruct, within two business days, appropriate employers to withhold child support obligations from the employee's paycheck, unless the employee's income is not subject to withholding.

Quarterly wage information on existing employees is required to be transmitted to the NDNH from the State Workforce Agencies within four months of the end of a calendar quarter. However, some states report quarterly wage data to the NDNH on a monthly or weekly basis. Federal agencies are required to transmit quarterly wage information on federal employees to the NDNH no later than one month after the end of a calendar quarter.¹⁴

Unemployment compensation information (which comes from State Workforce Agencies) is required to be transmitted to the NDNH within one month of the end of a calendar quarter.¹⁵

Current Access to the National Directory of New Hires

In order to safeguard the privacy of individuals in the NDNH, federal law requires that the OCSE restrict access to the NDNH database to "authorized" persons. Moreover, the NDNH cannot be used for any purpose not authorized by federal law. Thus, in order for any agency not mentioned in this section to gain access to the NDNH, Congress must authorize a change in law.

The HHS Secretary is required to share information from the NDNH with state CSE agencies, state agencies administering the Title IV-B child welfare program, state agencies administering the Title IV-E foster care and adoption assistance programs, state agencies administering the Temporary Assistance for Needy Families (TANF) program, the Commissioner of Social Security, the Secretary of the Treasury (for Earned Income Tax Credit purposes and to verify income tax return information), and researchers under certain circumstances.¹⁶

P.L. 106-113 (enacted in November 1999) granted access to the Department of Education. The provisions were designed to improve the ability of the Department of Education to collect on defaulted student loans and grant overpayments. OCSE and the Department of Education negotiated and implemented a computer matching agreement in December 2000.¹⁷

P.L. 108-199 (enacted in January 2004) granted access to the Department of Housing and Urban Development. The provisions were designed to verify the employment and income of persons receiving federal housing assistance.¹⁸

¹⁴ U.S. Department of Health and Human Services, Office of Child Support Enforcement, Federal Parent Locator Service, *A Guide to the National Directory of New Hires*, July 11, 2012, p. 4.

¹⁵ Ibid.

¹⁶ See the following sections of the Social Security Act for additional information: 453(j)(3), 453(j)(4), 453(j)(5), and 453(h)(3). Note that Section 105 of P.L. 110-351 (enacted October 7, 2008) added the Title IV-B and Title IV-E programs to the list of programs that have access to the National Directory of New Hires and other FPLS databases.

¹⁷ See Section 453(j)(6) of the Social Security Act.

¹⁸ See Section 453(j)(7) of the Social Security Act.

P.L. 108-295 (enacted in August 2004) granted access to the State Workforce Agencies responsible for administering state or federal Unemployment Compensation programs. The provisions were designed to determine whether persons receiving unemployment compensation are working.¹⁹

P.L. 108-447 (enacted in December 2004) granted access to the Department of the Treasury. The provisions were designed to help the Treasury Department collect nontax debt (e.g., small business loans, Department of Veterans Affairs (VA) loans, agricultural loans, etc.) owed to the federal government.²⁰

P.L. 109-250 (enacted in July 2006) granted access to the state agencies that administer the Food Stamp program. These provisions were designed to assist in the administration of the Food Stamp program. P.L. 110-246 (enacted in June 2008) changed the Food Stamp program references to the Supplemental Nutrition Assistance Program (SNAP).²¹ P.L. 113-79 (enacted in February 2014) required all state SNAP agencies (rather than giving them the option) to data-match with the NDNH at the time of SNAP certification for the purposes of determining eligibility to receive SNAP benefits and determining the correct amount of those benefits.²²

P.L. 110-157 (enacted in December 2007) requires the Secretary of Veterans Affairs to provide the HHS Secretary with information for comparison with the National Directory of New Hires for income verification purposes in order to determine eligibility for certain veteran benefits and services. It requires the Secretary to (1) seek only the minimum information necessary to make such a determination; (2) receive the prior written consent of the individual before seeking, using, or disclosing any such information; (3) independently verify any information received prior to terminating, denying, or reducing a benefit or service; and (4) allow an opportunity for an individual to contest negative findings. P.L. 110-157 terminated the New Hires Directory comparison authority for the VA Secretary at the end of FY2011 (i.e., September 30, 2011). P.L. 112-37 (enacted in October 2011) extended the termination date to November 18, 2011. During the period from November 19, 2011, through September 29, 2013, the provision was not in effect. The Department of Veterans Affairs Expiring Authorities Act of 2013 (P.L. 113-37) made the provision effective beginning September 30, 2013, and for 180 days thereafter.²³

Concerns Regarding the National Directory of New Hires

The NDNH is almost unanimously viewed as a successful and pivotal element of the CSE program. According to HHS, in FY2010 4.7 million²⁴ noncustodial parents and putative fathers were located through the NDNH, up from 2.8 million in FY1999 (a 68% increase). The NDNH,

¹⁹ See Section 453(j)(8) of the Social Security Act.

²⁰ See Section 453(j)(9) of the Social Security Act.

²¹ See Section 453(j)(10) of the Social Security Act.

²² See Section 11(e)(24) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(e)(24)).

²³ See Section 453(j)(11) of the Social Security Act.

²⁴ Most recent published data available.

however, does not provide information on the self-employed nor does it include hours worked or industry/occupation-related data.²⁵

Since the establishment of the NDNH, federal law has been amended six times to expand access of more programs and agencies to the NDNH (listed above). Although Congress specifically included several provisions that would safeguard the information in the NDNH,²⁶ some advocacy groups are concerned that as more agencies and programs are granted access to the NDNH, the potential for mismanagement of the database and accidental or intentional misuse of confidential information escalates.²⁷

The NDNH is a database that contains personal and financial data on nearly every working American, as well as those receiving unemployment compensation. The size and scope of the NDNH has continued to cause much concern over whether the privacy of individuals will be protected. In addition to the data security safeguards, federal law includes privacy protection provisions that require the removal or deletion of certain information in the NDNH after specified time periods.²⁸ It has been argued that stronger safeguards may be needed to prevent the unauthorized intrusion into the personal and confidential information of millions of Americans associated with the NDNH.

The federal government and states administer numerous benefit programs that provide aid, in cash and noncash form, to persons with limited income. In theory, all of these programs could use the employment and income information contained in the NDNH to verify program eligibility, prevent or end unlawful or erroneous access to program benefits, collect overpayments, or assure that program benefits are correct. Some observers are worried that more of these federal and state programs will try to obtain access to the NDNH. They contend that expanded or wider access to, and use of, these data could potentially lead to privacy and confidentiality breaches, financial fraud, identity theft, or other crimes.²⁹ They also are concerned that a broader array of legitimate

²⁵ Center for Law and Social Policy, *CLASP Comments on a Proposed Postsecondary Institution Rating System*, Submitted to the U.S. Department of Education, January 31, 2014. p. 5, <http://www.clasp.org/resources-and-publications/publication-1/CLASP-Comments-on-PIRS-2-4.pdf>.

²⁶ See Section 453(m) of the Social Security Act. According to an OCSE document: “*The NDNH is housed at the secure Social Security Administration (SSA) facility with access limited to authorized personnel. Data extracts authorized by legislation are made by batch processes and transmitted securely to recipients. All data recipients must agree to the OCSE Security Addendum to the Memorandum of Understanding that prescribes the protections that must be afforded the data. When used for research purposes (as authorized by the Secretary of HHS), disclosure is limited to data without personal identifiers under section 453(j)(5) of the Act. In addition, each state must have in effect safeguards designed to protect privacy rights. All state data is transmitted over secure lines to the NDNH.*” (Source: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, *Supporting Statement for OMB Clearance: National Directory of New Hires*, OMB no. 0970-0166, Revised May 2010, p. 10. See also: U.S. Department of Health and Human Services, Office of Child Support Enforcement, Federal Parent Locator Service, *A Guide to the National Directory of New Hires*, July 11, 2012, p. 7.

²⁷ Center for Law and Social Policy, *Preserve the Child Support System: Don't Let the New Hire Database be Hijacked for Immigrant Employment Verification*, by Vicki Turetsky, May 6, 2008.

²⁸ See earlier subsection on “Data Deletion Requirements.”

²⁹ U.S. Government Accountability Office, *National Sex Offender Registry: New Hires Data Has Potential for Updating Addresses of Convicted Sex Offenders*, GAO-06-766, July 2006, p. 26. See also: U.S. Department of the Treasury, Inspector General for Tax Administration, Hearing before the House Committee on Oversight and Government Reform, Subcommittee on Government Organization, Efficiency, and Financial Management, *Problems as the Internal Revenue Service: Closing the Tax Gap and Preventing Identity Theft*, Testimony of the Honorable J. Russell George, Treasury Inspector General for Tax Administration, April 19, 2012.

users of the NDNH may conceal the unauthorized use of the personal and financial data in the NDNH.

Some policymakers maintain that, although many agencies and programs could potentially benefit from access to the NDNH, those entities will not pursue access because many of these agencies currently do not have the computer capacity or capability to use an automated system such as the NDNH. Many of these agencies and programs are administered at the local level where computer availability is limited or computer capability to interface with the automated NDNH is nonexistent. Moreover, many of the privacy protections and strict security requirements tied to the NDNH may be administratively burdensome for many agencies.

Finally, some child support advocates are concerned that the wider access to the NDNH may have negative repercussions for the CSE program in that as other programs and agencies use the NDNH effectively and find matches in cases that involve an overpayment, those agencies will want to collect their money and may use income withholding as the mechanism to do so. Thus, these other programs will be in direct competition with the CSE program for the income of noncustodial parents.